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COMMITTEE ON APPLICATIONS FOR REVIEW OF
ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Fortieth session
Application Nos. 78, 79, 80, 81 and 82

ADMINISTRATIVE TRIBUNAL JUDGEMENTS NO. 560: CLAXTON AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 565: AL-ATRAQCHI AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 562: AL-JAFF AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 558: FARUQ AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 555: SELAMAWIT MAKONNEN AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS

Report of the Committee

Rapporteur: Mr. Michael WOOD (United Kingdom of Great Britain and Northern Ireland)

INTRODUCTION

1. At its fortieth session, the Committee on Applications for Review of Administrative Tribunal Judgements, established under article 11 of the statute of the Administrative Tribunal, considered the following applications:

(a) Application of Ms. Claxton for a review of Administrative Tribunal Judgement No. 560 - Claxton v. the Secretary- General of the United Nations;

(b) Application of Mr. Al-Atraqchi for a review of Administrative Tribunal Judgement No. 565 - Al-Atraqchi v. the Secretary-General of the United Nations;

(c) Application of Mr. Al-Jaff for a review of Administrative Tribunal Judgement No. 562 - Al-Jaff v. the Secretary- General of the United Nations;

(d) Application of Mr. Faruq for a review of Administrative Tribunal Judgement No. 558 - Faruq v. the Secretary- General of the United Nations;

(e) Application of Ms. Selamawit Makonnen for a review of Administrative Tribunal Judgement No. 555 - Selamawit Makonnen v. the Secretary-General of the United Nations.

2. Meetings of the Committee were held on 18 and 20 January 1993.

I. COMPOSITION OF THE COMMITTEE AND ORGANIZATION OF THE SESSION

3. The Committee, under paragraph 4 of article 11 of the statute of the Administrative Tribunal, is composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly (forty-seventh session), namely, at this time: Afghanistan, Austria, Belize, Benin, Bulgaria, Cape Verde, China, Comoros, Egypt, El Salvador, France, Gabon, Iran (Islamic Republic of), Ireland, Kuwait, Lesotho, Libyan Arab Jamahiriya, Nicaragua, Philippines, Romania, Russian Federation, Sri Lanka, Suriname, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yemen.

4. At its first meeting, on 18 January 1993, the Committee elected the following officers:

Chairman: Mr. Javad Zarif (Islamic Republic of Iran)

Rapporteur: Mr. Michael Wood (United Kingdom)

II. THE APPLICATIONS BEFORE THE COMMITTEE AND THEIR CONSIDERATION

5. On 30 September 1992, the Committee received, through its Secretary, an application from Ms. Claxton requesting a review of Judgement No. 560 rendered by the United Nations Administrative Tribunal on 30 June 1992 in the case of Claxton against the Secretary-General of the United Nations. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 14 December 1992, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.231) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Tribunal (AT/DEC/560).

6. Written comments of the Respondent, submitted with respect to the application of Ms. Claxton in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.232.

7. The Committee considered the application of Ms. Claxton at its closed meeting held on 18 January 1993.

8. The Committee decided, without a vote, that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 560 delivered by the United Nations Administrative Tribunal in the case of Claxton against the Secretary-General of the United Nations.

9. On 5 October 1992, the Committee received, through its Secretary, an application from Mr. Al-Atraqchi requesting a review of Judgement No. 565 rendered by the United Nations Administrative Tribunal on 2 July 1992 in the case of Al-Atraqchi against the Secretary-General of the United Nations. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 14 December 1992, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.233) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Tribunal (AT/DEC/565).

10. Written comments of the Respondent, submitted with respect to the application of Mr. Al-Atraqchi in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.234.

11. The Committee considered the application of Mr. Al-Atraqchi at its closed meeting held on 18 January 1993.

12. The Committee decided, without a vote, that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 565 delivered by the United Nations Administrative Tribunal in the case of Al-Atraqchi against the Secretary-General of the United Nations.

13. On 7 October 1992, the Committee received, through its Secretary, an application from Mr. Al-Jaff requesting a review of Judgement No. 562 rendered by the United Nations Administrative Tribunal on 2 July 1992 in the case of Al-Jaff against the Secretary-General of the United Nations. The application of Mr. Al-Jaff did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, of the rules of procedure of the Committee, on 15 October 1992 the application was returned to Mr. Al-Jaff and to the counsel nominated by Mr. Al-Jaff on 13 October 1992 to act on his behalf before the Committee, with a request that it be corrected and resubmitted within three weeks from the date of its return. On 4 November 1992, a corrected application of Mr. Al-Jaff dated 3 November 1992

for review of Judgement No. 562 - Al-Jaff v. the Secretary-General of the United Nations - was received by the Secretary of the Committee. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 14 December 1992, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.235) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Tribunal (AT/DEC/562).

14. Written comments of the Respondent, submitted with respect to the application of Mr. Al-Jaff in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.236.

15. The Committee considered the application of Mr. Al-Jaff at its closed meeting held on 18 January 1993.

16. The Committee decided, without a vote, that there was not a substantial basis for the application of Mr. Al-Jaff under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 562 delivered by the United Nations Administrative Tribunal in the case of Al-Jaff against the Secretary-General of the United Nations.

17. On 19 October 1992, the Committee received, through its Secretary, an application from Mr. Faruq requesting a review of Judgement No. 558 rendered by the United Nations Administrative Tribunal on 30 June 1992 in the case of Faruq against the Secretary-General of the United Nations. The application of Mr. Faruq did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, of the rules of procedure of the Committee, on 20 October 1992 the application was returned to Mr. Faruq with a request that it be corrected and resubmitted within three weeks from the date of its return. On 4 November 1992, a corrected application of Mr. Faruq dated 31 October 1992 for review of Judgement No. 558 - Faruq v. the Secretary-General of the United Nations - was received by the Secretary of the Committee. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 14 December 1992, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.237) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Tribunal (AT/DEC/558).

18. Written comments of the Respondent, submitted with respect to the application of Mr. Faruq in accordance with article V, paragraph 1, of the

rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.238.

19. The Committee considered the application of Mr. Faruq at its closed meeting held on 18 January 1993.

20. The Committee decided, without a vote, that there was not a substantial basis for the application of Mr. Faruq under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 558 delivered by the United Nations Administrative Tribunal in the case of Faruq against the Secretary-General of the United Nations.

21. On 21 October 1992, the Committee received, through its Secretary, an application from Ms. Selamawit Makonnen requesting a review of Judgement No. 555 rendered by the United Nations Administrative Tribunal on 26 June 1992 in the case of Selamawit Makonnen against the Secretary-General of the United Nations. The application of Ms. Makonnen did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, of the rules of procedure of the Committee, on 26 October 1992 the application was returned to Ms. Makonnen with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Ms. Makonnen, dated 13 November 1992, requesting a review of Judgement No. 555 - Selamawit Makonnen v. the Secretary-General of the United Nations - was received by the Secretary of the Committee on the same date. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 14 December 1992, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.239) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Tribunal (AT/DEC/555).

22. Written comments of the Respondent, submitted with respect to the application of Ms. Selamawit Makonnen in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.240.

23. The Committee considered the application of Ms. Selamawit Makonnen at its closed meeting held on 18 January 1993.

24. The Committee decided, without a vote, that there was not a substantial basis for the application of Ms. Selamawit Makonnen under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 555 delivered by the United Nations Administrative Tribunal in the case of Selamawit Makonnen against the Secretary-General of the United Nations.

25. In accordance with article VIII, paragraph 4, of the rules of procedure of the Committee, the decisions of the Committee with regard to the applications of Ms. Claxton, Mr. Al-Atraqchi, Mr. Al-Jaff, Mr. Faruq and Ms. Selamawit Makonnen were formally announced by the Chairman at the meeting of the Committee held in public on 20 January 1993. At that meeting representatives of the United Kingdom, Egypt, Ireland, Sri Lanka, the Islamic Republic of Iran and the United States of America made statements for the record. The verbatim record of the public meeting of the Committee is contained in document A/AC.86/XL/PV.2.